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# HARVARD LAW REVIEW.

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On September 2d, 1896, FREDERICK B. JACOBS, A. B., 1889, LL. B. and A. M., 1892, died of consumption at his home at Norwell, Mass. While in the Law School he was an editor of this REVIEW, and up to his death he held the position of Secretary of his Class. He was a man of marked ability, and possessed qualities that endeared him to all who knew him. At a meeting in Boston, September 19th, his Class adopted the following resolution: "We, the members of the Class of 1892 of the Harvard Law School, join in expressing our deep regret at the death of our classmate and friend, Frederick Boyden Jacobs. To those who knew him in college days he was an old and dear friend; to his Law School class a kindly companion and a steadfast fellow student. His work proved him a scholar of high attainments; his energy and capabilities gave promise of much success at the bar, and his strong personality showed above all the man. He had our respect and regard in his life and our sorrow in his early death. We join in conveying to his family our sympathy for their loss, which is ours also."

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PHILIP STANLEY ABBOT, who was killed in mountain climbing on August 4th, was one of the most prominent members of the Law School Class of 1893. In the lecture rooms, in the Thayer Club, of which he was clerk, on this REVIEW, of which he was editor-in-chief, he distinguished himself from the first by work which was at once brilliant and sound. He was an interested member of the Phi Delta Phi. The rapidity with which he worked and his unusual energy enabled him to do an unusual number of things and to do them all well. During his course at Harvard College, from which he graduated near the head of his class in 1890, he had shown the same enthusiasm for thoroughness and variety of study and experience, doing equally effective work in his courses, in college journalism, and in philanthropic work. His interest in the theory

of the law grew steadily from the time he entered the School, and but a short time before he died he expressed his satisfaction that the further one went in the practice of the law, the larger faculties it called into action and the less it asked for drudgery. He leaves friends, classmates, who think of him as they do of few other men. The earnestness with which he lived for the best ends, the generosity of his interest in the public good and in the lives of his friends, his ability, his constant buoyancy, his kindness and loyalty, made all believe in his future service to the world, and made his loss to his friends a peculiarly heavy one.<sup>1</sup>

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THE LAW SCHOOL.—The Law School opened on the first Monday in October, with an entering class somewhat smaller than that of last year. This was expected, as the new regulations as to admission went into effect this fall for the first time. Full statistics will appear in the December number.

Owing to the continued illness of Professor Williston, some changes in the curriculum have been made necessary. Professor Ames has taken charge of Contracts and Bills and Notes, and Professor Beale of Pleading. Mr. Harvey H. Baker, LL.B., 1894, is conducting the course on Partnership. Suretyship has been dropped from the list for this year. According to the announcement made last spring, Mr. Frank B. Williams, instructor in Roman Law in the College, is giving Second Year Property. It is confidently expected that Professor Williston will return during the winter, in which case he will take charge of the course on Bills and Notes for the remainder of the year.

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FREE SPEECH VERSUS FAIR TRIAL.—While the notorious Durrant murder trial was pending last spring at San Francisco, a theatrical manager in that city announced the production of a play, manifestly based on the facts of the above case as they had appeared at the preliminary examination. The prospectus showed that the play was of a most sensational character, and the prisoner, claiming that the popular mind would be so inflamed as to render a fair trial impossible, demanded that its production be enjoined. The trial court accordingly issued an order to that effect. On writ of *certiorari*, the Supreme Court of California, in *Dailey v. Superior Court*, 44 Pac. Rep. 458, annulled the order, holding that the constitutional right of free speech must not be hampered by anything in the nature of a censorship.

The California Constitution provides that "every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press." It is often stated that liberty of the press means the right to publish without previous restraint; the court being powerless with regard to writings not yet published. (Story on the Constitution, § 1885.) And the California court held that the right to produce plays at a theatre is no less extensive. Admitting that the presentation of this play might have amounted to contempt of court, and have been punishable as such, the majority of the judges felt convinced

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<sup>1</sup> For this obituary notice the Editorial Board is indebted to Mr. Norman Hapgood, a fellow editor and classmate of Mr. Abbot.